

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

CAREY D. EBERT, §
§
Plaintiff, §
§
v. § Civil Action No.: 4:15-cv-225-0
§
MICHAEL GUSTIN, ET AL., §
§
Defendants. §

**DEFENDANTS MICHAEL GUSTIN, JEFFREY WOHLER, AND JOHN PAUL
DEJORIA'S OBJECTIONS TO PLAINTIFF'S PROPOSED DEPOSITION EXCERPTS
AND CONDITIONAL SUPPLEMENTAL DEPOSITION CUTS DESIGNATIONS**

Defendants John Paul DeJoria, Michael Gustin, and Jeffrey Wohler (the “DGW Defendants”) file the following objections to the deposition designations filed by Plaintiff Carey D. Ebert, as the Chapter 11 trustee of the Latitude Solutions Inc. bankruptcy estate (the “Trustee”) and in support thereof state as follows:

In connection with the objections below, counsel for the Trustee and all Defendants are and have been working together to streamline their respective objections to deposition designations. In this regard, the parties have conferred pursuant to Local Rule 7.1 and will continue to do so in order to narrow any issues prior to the June 26th / July 3rd deadline set by the Scheduling Order (Rec.Doc. 210) and/or by the time any pretrial conference may be set by the Court. The parties further respectfully suggest that many of their respective objections are addressed in their respective Motions in Limine, and that the rulings regarding these motions may resolve many of the objections asserted at this time.

In addition, the DGW Defendants also identify herein additional deposition designations that they intend to conditionally offer based on deposition excerpts proposed by the Trustee.

Key to Objection Referenced Below:

“MIL” refers to the Motion in Limine by the DGW Defendants that is currently pending before the Court.

“MILS” refers to the Limine stipulations agreed by the parties as part of the Joint Pre-Trial Order filed on June 15, 2017.

FRE 403 refers to objection based on confusing, unfair, misleading or unduly evidence under FRE 403.

FRE 404 refers to objection based on character evidence inconsistent with FRE 404

FRE 602 refers to objection based on lack of personal knowledge under FRE 602

Martin Charles Donegani

Excerpt	Objection Yes or No	Basis for Objection
45:1-18	Yes	MIL#6
63:22-67:8	Yes	MIL#1, FRE 403, FRE 404
69:10-12	Yes	MIL#1, FRE 403, FRE 404
71:18-72:20	Yes	MIL#1, FRE 403, FRE 404
77:7-79:21	Yes	MIL#9
80:10-11	Yes	MILS #3, FRE 403, FRE 404
80:20-83:22	Yes	MILS#3
86:19-25	Yes	MIL#9
103:4-19	Yes	MILS #3, FRE 403, FRE 404
105:23-106:8	Yes	MILS#3, FRE 403, FRE 404
131:25-132:2	Yes	MIL#9, FRE 403
134:1-135:9	Yes	MIL#9, FRE 403
140:20-142:18	Yes	MIL#9, FRE 403
153:5-153:10	Yes	MIL#8, FRE 403
249:19-250:4	Yes	Rule 602

CONDITIONAL SUPPLEMENTAL DEPOSITION CUT DESIGNATIONS BASED ON THE TRUSTEE'S DESIGNATIONS

198:19-200:6
200:23-201:3
202:16-203:24

Harvey Klebanoff

Excerpt	Objection Yes or No	Basis for Objection
15:13-17:19	Yes	MIL#1, FRE 403, FRE 404
85:19-87:11	Yes	MIL#1, FRE 403, FRE 404
97:21-98:15	Yes	MIL#1, FRE 403, FRE 404
98:22-101:5	Yes	MIL#1, FRE 403, FRE 404
102:18-103:12	Yes	MIL#1, FRE 403, FRE 404
111:4-18	Yes	MIL#7, FRE 403
112:12-113:10	Yes	MIL#8, FRE 403
117:3-25	Yes	MIL#1, FRE 403, FRE 404
158:7-159:10	Yes	MIL#6, FRE 403
188:23-189:24	Yes	MIL#8, FRE 403
213:23-214:21	Yes	MIL#8, FRE 403
415:12-9	Yes	MILS#3, FRE 403, FRE 404
415:12-416:9	Yes	MILS#3, FRE 403, FRE 404
416:18-417:1	Yes	MILS#3, FRE 403, FRE 404
424:13-425:2	Yes	MIL#1, FRE 403, FRE 404
425:14-427:14	Yes	MIL#1, FRE 403, FRE 404
427:15-429:7	Yes	MIL#6, FRE 403
429:7-431:25	Yes	MIL#1, FRE 403, FRE 404

Joseph Anthony McGee

Excerpt	Objection Yes or No	Basis for Objection
60:15-61:5	Yes	MIL#1, FRE 403, FRE 404
61:15- 62:18	Yes	MIL#1, FRE 403, FRE 404
62:24-63:9	Yes	MIL#1, FRE 403, FRE 404
63:18-22	Yes	MIL#9, FRE 403, FRE 802
63:22-64:5, 64:11-13, 64:16-21	Yes	MIL#1, MIL#2, FRE 403, FRE 404

75:6-8	Yes	MIL#1, FRE 403, FRE 404
100:7-102:19	Yes	MIL#1, FRE 403, FRE 404
122:16-123:7	Yes	MIL#2
129:14-23	Yes	MIL#2
133:11-14, 133:21-25	Yes	MIL#2

The DGW Defendants further object to the entire deposition submission of Matt Cohen by the Plaintiff for the reason that Mr. Cohen will be attending the testifying live. The DGW Defendants further object because to date the Trustee had conditionally designated the entire multi-day transcript of Mr. Cohen's deposition in the event Mr. Cohen does not attend trial, but counsel has indicated that she does not to use the entire transcript if Mr. Cohen does not attend trial. As such, it is overly burdensome to require the DGW Defendants to raise any specific objections unless and until the Trustee has identified which portions of the testimony she may actually use at trial.

Finally, the GWD Defendants do not waive any right or privilege to supplement or amend these objections at any time. Further, the DGW Defendants join with all objections filed by their co-defendants and accept those objections as their own.

Respectfully submitted,

McGuireWoods LLP

/s/ K. Knox Nunnally

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*Counsel for John Paul DeJoria,
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served via the Court’s ECF system to counsel, on this 15th day of June, 2017.

/s/ K. Knox Nunnally

K. Knox “Lighthorse” Nunnally

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